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GROUSE RIVER OUTFITTERS, LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GROUSE RIVER OUTFITTERS LTD.,

Plaintiff,

v.

ORACLE CORPORATION,

Defendant.

Case No. 3:16-cv-02954-LB

**[PROPOSED] REVISED SCHEDULING
ORDER**

The following sets forth the parties' respective revised case schedules based on the Court's indication at the September 30, 2021 case management conference that the earliest date trial would be held would be August 8, 2022.

At that conference, the Court indicated that it would issue a tentative ruling on the divergent positions articulated by the parties in their joint case management statement.

Accordingly, the parties are submitting different schedules based on their respective positions.

Grouse River's proposed schedule:

As reflected in the joint CMS, Grouse River believes, consistent with the Ninth Circuit's memorandum opinion and mandate, that it should be permitted to serve revised Rule 26 disclosures as to its damages under Penal Code § 496 and the additional claims for fraud that are now in the case. Grouse River also believes, as set out in the joint CMS, that Oracle cannot move for summary judgment on claims the Ninth Circuit has determined should go to a jury, and that it is improper to move for summary judgment on independent factual issues.

Case Event	Filing Date/Disclosure Deadline/Hearing Date
Grouse River service of amended complaint and amended Rule 26 disclosures	November 17, 2021
Settlement conference with Judge Spero	November / December 2021
Close of fact discovery	March 31, 2022
Last day to meet and confer re: pretrial filings	June 16, 2022
Joint jury instructions due	July 7, 2022
Memoranda on any disputed new jury instructions (i.e., Penal Code § 496) due	July 7, 2022
Joint proposed pretrial order (with all attachments) due	July 7, 2022
Trial briefs due	July 7, 2022
FRCP 26(a)(3) disclosures due	July 7, 2022
Parties to lodge (i) joint sets of trial exhibits, (ii) deposition designations, (iii) interrogatory and admission designations, and (iv) objections to exhibits and use of depositions	July 14, 2022

Case Event	Filing Date/Disclosure Deadline/Hearing Date
Final pretrial conference	July 28, 2022 at 1:00 pm
Trial	August 8, 2022
Length of Trial	7 days

Oracle's proposed schedule:

As the Court recognized at the September 30, 2021 case management conference, the Ninth Circuit's reversal and remand was a limited one that does not give Grouse River the ability to re-try an entirely different case. Grouse River cannot amend its complaint to add new allegations, nor can it revise its disclosures to seek additional damages — which would circumvent the Ninth Circuit's affirmation of this Court's exclusion of certain categories of damages. *See* Dkt. No. 429, at 12-16. On the other hand, the Ninth Circuit *expressly permitted* this Court to consider other challenges to the two new fraud allegations. *Id.* at 10-11; *see* Dkt. No. 416, at 7. In addition, Grouse River's Penal Code § 496 claim was dismissed before summary judgment. As a result, and as the Court noted at the case management conference, Oracle should have the opportunity to file a motion for summary judgment before this case proceeds to a new trial.

At the case management conference, the Court indicated that Grouse River would not be allowed to amend its pleadings or revise its damages disclosures. Provided that the Court does not depart from that view in the tentative ruling requested by Grouse River, Oracle is willing to participate in a settlement conference before Chief Magistrate Judge Spero in the November / December 2021 timeframe, as Grouse River's proposed schedule reflects.

Oracle's proposed schedule, including a proposed schedule for its motion for summary judgment, follows. (As the parties agree on many dates, differences from Grouse River's proposed schedule are marked in **bold**.)

Case Event	Filing Date/Disclosure Deadline/Hearing Date
Oracle's motion for summary judgment due	November 17, 2021
Settlement conference with Judge Spero	November / December 2021
Grouse River's opposition to Oracle's motion for summary judgment due	December 22, 2021
Oracle's reply in support of motion for summary judgment due	January 19, 2022
Hearing on Oracle's motion for summary judgment	February 24, 2022 at 9:30 am
Last day to meet and confer re: pretrial filings	June 16, 2022
Joint jury instructions due	July 7, 2022
Memoranda on any disputed new jury instructions (i.e., Penal Code § 496) due	July 7, 2022
Joint proposed pretrial order (with all attachments) due	July 7, 2022
Trial briefs due	July 7, 2022
FRCP 26(a)(3) disclosures due	July 7, 2022
Parties to lodge previously submitted (i) joint sets of trial exhibits, (ii) deposition designations, (iii) interrogatory and admission designations, and (iv) objections to exhibits and use of depositions	July 14, 2022
Final pretrial conference	July 28, 2022 at 1:00 pm
Trial	August 8, 2022
Length of Trial	5 days

Dated: October 7, 2021

Respectfully submitted,

LATHAM & WATKINS LLP

By: /s/ Sarah M. Ray
Sarah M. Ray

Attorney for Defendant
ORACLE CORPORATION

KIEVE LAW OFFICES

By: /s/ Loren Kieve
Loren Kieve

Attorney for Plaintiff
GROUSE RIVER OUTFITTERS LTD.

IT IS SO ORDERED.

Dated: October __, 2021

LAUREL BEELER
United States Magistrate Judge

SIGNATURE ATTESTATION

I, Sarah M. Ray, am the ECF User whose identification and password are being used to file the foregoing document. Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the filing of this document has been obtained.

Dated: October 7, 2021

LATHAM & WATKINS LLP

By: /s/ Sarah M. Ray
Sarah M. Ray
Attorney for Defendant ORACLE
CORPORATION